


ORDERED.

Dated: February 19, 2016


Caryl E. Delano
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

IN RE:

DONALD E. EISCHEID

Debtor.

CASE NO. 9:15-bk-07941-FMD
CHAPTER 13

**ORDER GRANTING DEBTOR'S MOTION TO DETERMINE SECURED STATUS OF
REGIONS BANK/AMSOUTH BANK AND TO STRIP LIEN EFFECTIVE UPON
DISCHARGE AND REQUEST FOR ATTORNEYS FEES**

(Docket No. 18)

THIS CAUSE, came on for consideration, *ex parte*, on the Debtors' Motion to Determine Secured Status of Regions Bank/Amsouth Bank and to Strip Lien (the "Motion") (Doc. 18) pursuant to negative notice provisions of Local Rule 2002-4. The Court, considering the Motion and the absence of any record objection to the relief requested in the Motion by any party in interest, deems the Motion to be uncontested. The Motion is not deemed to be an informal proof of claim except for the purpose of initiating the Debtors ability to request relief pursuant to 11 U.S.C. § 506(a).

The real property (the "Real Property") that is the subject

of the Motion is located at 2119 Fitch Avenue, Alva, FL 33920, and more specifically described as follows:

Lot 21, Block 15, Unit 4, Lehigh Acres, Section 1, Township 44 South, Range 27 East, a subdivision according to the plat thereof recorded at Deed Book 254, Page 100 and Plat Book 15, Page 3 in the Public Records of Lee County, Florida.

Accordingly, it is hereby ORDERED:

1. The Motion is GRANTED.
2. If Regions Bank/Amsouth Bank timely filed a proof of claim relating to the Mortgage, the claim shall be treated as an unsecured claim, in this Chapter 13 case.
3. The mortgage on the Real Property held by Regions Bank/Amsouth Bank, account number xxxx5994, recorded on May 23rd, 2005, Book No. 04720, at Pages 4847-4554, Instrument No. 6806018, of the official records of Lee County, Florida shall be deemed void, and shall be extinguished automatically, without further court, upon the recordation in the public records of a certified copy of this Order together with (a) a certified copy of the Debtors Chapter 13 discharge order or (b) such other paper as the Court may specify by separate order. However, the Court reserves jurisdiction to consider, if appropriate, the avoidance of Regions Bank/Amsouth Bank mortgage lien prior to entry of Debtors discharge.
4. This order does not prohibit Regions Bank/Amsouth Bank asserting, at any time prior to the time when the lien is

avoided by this order upon entry of the Debtors' discharge, any rights it may have as a defendant in any foreclosure proceeding brought by a senior mortgagee, including the right to claim excess proceeds from any foreclosure sale.

IT IS FURTHER ORDERED that Debtors' attorney is awarded \$ 300.00 in fees, and costs for 12 photocopies at \$0.15 per page, totaling \$ 1.80 plus postage for 4 mailings at \$ 0.465 per mailing, totaling \$ 1.86, for total costs of \$ 3.66.

Attorney for Debtors, Richard J. Hollander, is directed to serve a copy of this Order on interested parties and file a proof of service within 3 days of entry of this Order.

Copies to:

Debtors

Miller and Hollander

U.S. Trustee

Jon M. Waage, Trustee

Regions Bank/Amsouth Bank, c/o Andrew Houchins, Claimant, Rush Marshall, PO box 3146, Orlando, FL 32802-3146

Regions Bank/Amsouth Bank, c/o Grayson O.B. Hall Jr., President, 1900 Fifth Avenue North, Birmingham, AL 35203

Regions Bank/Amsouth Bank, c/o Corporation Service Company, Registered Agent, 1201 Hays Street, Tallahassee, FL 32301